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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,742

04/13/2004

Wei Li

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4586 7590 03/28/2008

ROSENBERG, KLEIN & LEE  
3458 ELLICOTT CENTER DRIVE-SUITE 101  
ELLICOTT CITY, MD 21043

EXAMINER

YENKE, BRIAN P

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,742	<b>Applicant(s)</b> LI ET AL.	
	<b>Examiner</b> BRIAN P. YENKE	<b>Art Unit</b> 2622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on RCE/Amendment (02/19/08).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/19/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 29 August 2007 have been fully considered but are moot in view of new grounds of rejection, it is noted the same reference is being used in the rejection ( now a 103 rejection, previously a 102 rejection), wherein the arguments may still apply, they are not persuasive as described below.

### ***Applicant's Arguments***

a) Applicant states that the intensity limitation of the presently application pertains to luminance values and not chrominance values. The applicant also states that the adjustment of intensity and variation is respectively applied to luminance and chrominance values. The applicant states that as described in the present disclosure "intensity" refers to processing luminance values and are completely independent and unrelated to saturation levels and variations of chrominance values.

b) Applicant states that the term variance in the claims refers to a statistical variance as opposed to Graves which describes mid's and differences.

***Examiner's Response***

a) The examiner disagrees. It is noted that terms brightness and intensity are interchangeable words that describe luminance values. Graves discloses (para 41 and 45) the brightness with respect to luminance values in obtaining/calculating and constructing it's color (including luminance) correction. Thus in the event the applicant maintains that intensity and brightness and luminance (or luma) describe different values/parameters, the examiner requests the applicant to clarify such. The examiner has cited, US 20050062891, which states that Y (luma value) is used interchangeably with luminance, brightness or intensity.

b) The examiner has provided a new grounds of rejection, based upon applicant's statement that variance is not just the difference or mid, but a statistical calculation, namely square of the standard deviation, thus the term previously given it's broadest interpretation is now read as variance being defined as the square of the standard deviation. It is noted by definition, variance is defined as a difference, wherein it can be further defined as the difference defined as the square of the standard deviation, wherein the claims are intended as the latter.

***Claim Rejections - 35 USC § 103\***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves et al., US 2003/0103057.

In considering claims 11-13, 16 and 19-20,

a) the claimed obtaining intensity...is met by color correction window 230 (Fig 2) which allows the user to select/alter/adjust luminance (intensity) and chrominance values (variation).

b) the claimed calculating average...is met where the system computes the mid's and differences of the selected luminance/chrominance value and the luminance/chrominance value of the other pixel.

c) the claimed calculating luminance-contrast adjustment...is met where the system includes "auto-contrast buttons" (para 87, 88, Fig 4).

d-e) the claimed constructing...is met where the system constructs a representation of the color-space whether cylindrically or graphically.

f) the claimed applying...is met where the selected points on the curve/position of the luma and chroma selected are applied to the video signal to map the original pixels.

Although, Graves does not explicitly recite the variance being the "square of the standard deviation". Graves discloses a system which computes the mid's and differences of the luma/chroma pixels to perform color correction.

It is also known that variance is a representative value of a difference, wherein by definition a variance is the square of the standard deviation (difference).

Thus the calculation of a value which is indicative of a difference may be represented by the variance. It is also known that calculating a value(s) by a known equation which derives predictable results is not patentable in view of the Supreme Courts decision in KSR vs Teleflex. Wherein the instance case by modifying Graves which already discloses the calculation/use of a difference value(s) to use the variance of such value(s) would provide the user/system the result they intended to calculate/determine, thereby producing an predictable value.

In considering claims 14 and 17,

Graves discloses the use of LUT's (para 110).

In considering claim 18,

As stated above with respect to claim 11, Graves discloses the use of a cylindrical representation or tables.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571)-273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/BRIAN P. YENKE/  
Primary Examiner, Art Unit 2622

B.P.Y.  
25 March 2008

Application/Control Number: 10/822,742  
Art Unit: 2622

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